

AMENDED IN SENATE JUNE 27, 2006

AMENDED IN ASSEMBLY APRIL 20, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2251

Introduced by Assembly Member Evans

February 22, 2006

An act to add Chapter 3.25 (commencing with Section 6218) to Division 7 of Title 1 of the Government Code, relating to reproductive health care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2251, as amended, Evans. Reproductive health care services: confidentiality of personal information.

(1) Existing law, to be repealed on January 1, 2008, establishes the Address Confidentiality for Reproductive Health Care Services Providers, Employees, Volunteers, and Patients program to protect the confidentiality of home address information of reproductive health care services providers, employees, volunteers, and patients. The program authorizes specified persons to complete an application to be filed with the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record. Under existing law, any person who makes a false statement in an application is guilty of a misdemeanor.

This bill would prohibit any person, business, or association from knowingly publicly posting or displaying on the Internet the home address, home telephone number, or image of any provider, employee, volunteer, or patient of a reproductive health services facility or of

persons residing at the same home address of those persons with the intent to incite a 3rd person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the 3rd person is likely to commit this harm, or to threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for his or her personal safety. ~~This bill would make a violation of these provisions a misdemeanor, with such a violation that leads to great bodily harm being a felony. By creating a new crime, the bill would impose a state-mandated local program.~~ The bill would establish a cause of action for damages and declaratory relief for these violations.

(2) This bill would, in addition, prohibit the public posting or displaying on the Internet of a home address or home telephone number after a written demand and would permit injunctive and declaratory relief in such a case. The bill would prohibit the Internet sale or trade of this information with the intent specified in paragraph (1) above, and would authorize recovery of money damages for violations.

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.25 (commencing with Section 6218)
2 is added to Division 7 of Title 1 of the Government Code, to
3 read:

4
5 CHAPTER 3.25. ONLINE PRIVACY FOR REPRODUCTIVE
6 HEALTH SERVICES PROVIDERS, EMPLOYEES, VOLUNTEERS, AND
7 PATIENTS

8
9 6218. (a) (1) No person, business, or association shall
10 knowingly publicly post or publicly display on the Internet the

1 home address, home telephone number, or image of any
2 provider, employee, volunteer, or patient of a reproductive health
3 services facility or other individuals residing at the same home
4 address with the intent to do either of the following:

5 (A) Incite a third person to cause imminent great bodily harm
6 to the person identified in the posting or display, or to a
7 coresident of that person, where the third person is likely to
8 commit this harm.

9 (B) Threaten the person identified in the posting or display, or
10 a coresident of that person, in a manner that places the person
11 identified or the coresident in objectively reasonable fear for his
12 or her personal safety.

13 ~~(2) Subject to paragraph (3), a violation of this subdivision is~~
14 ~~punishable as a misdemeanor.~~

15 ~~(3) A violation of this subdivision that leads to great bodily~~
16 ~~injury is punishable as a felony.~~

17 ~~(4) Notwithstanding any other provision of law, a provider,~~

18 (2) A *provider*, employee, volunteer, or patient of a
19 reproductive health services facility whose home address, home
20 telephone number, or image is made public as a result of a
21 violation of paragraph (1) may do either or both of the following:

22 (A) Bring an action seeking injunctive or declarative relief in
23 any court of competent jurisdiction. If a jury or court finds that a
24 violation has occurred, it may grant injunctive or declarative
25 relief and shall award the successful plaintiff court costs and
26 reasonable attorney's fees.

27 (B) Bring an action for money damages in any court of
28 competent jurisdiction. In addition to any other legal rights or
29 remedies, if a jury or court finds that a violation has occurred, it
30 shall award damages to that individual in an amount up to a
31 maximum of three times the actual damages, but in no case less
32 than four thousand dollars (\$4,000).

33 (b) (1) No person, business, or association shall publicly post
34 or publicly display on the Internet the home address or home
35 telephone number of any provider, employee, volunteer, or
36 patient of a reproductive health services facility if that individual
37 has made a written demand of that person, business, or
38 association to not disclose his or her home address or home
39 telephone number. A demand made under this paragraph shall
40 include a sworn statement declaring that the person is subject to

1 the protection of this section and describing a reasonable fear for
2 the safety of that individual or of any person residing at the
3 individual's home address, based on a violation of subdivision
4 (a). A written demand made under this paragraph shall be
5 effective for four years, regardless of whether or not the
6 individual's affiliation with a reproductive health services facility
7 has expired prior to the end of the four-year period.

8 (2) A provider, employee, volunteer, or patient of a
9 reproductive health services facility whose home address or
10 home telephone number is made public as a result of a failure to
11 honor a demand made pursuant to paragraph (1) may bring an
12 action seeking injunctive or declarative relief in any court of
13 competent jurisdiction. If a jury or court finds that a violation has
14 occurred, it may grant injunctive or declarative relief and shall
15 award the successful plaintiff court costs and reasonable
16 attorney's fees.

17 (3) This subdivision shall not apply to a person or entity
18 defined in Section 1070 of the Evidence Code.

19 (c) (1) No person, business, or association shall solicit, sell, or
20 trade on the Internet the home address, home telephone number,
21 or image of a provider, employee, volunteer, or patient of a
22 reproductive health services facility with the intent to do either of
23 the following:

24 (A) Incite a third person to cause imminent great bodily harm
25 to the person identified in the posting or display, or to a
26 coresident of that person, where the third person is likely to
27 commit this harm.

28 (B) Threaten the person identified in the posting or display, or
29 a coresident of that person, in a manner that places the person
30 identified or the coresident in objectively reasonable fear for his
31 or her personal safety.

32 ~~(2) Notwithstanding any other provision of law, a provider,~~

33 (2) A provider, employee, volunteer, or patient of a
34 reproductive health services facility whose home address, home
35 telephone number, or image is solicited, sold, or traded in
36 violation of paragraph (1) may bring an action in any court of
37 competent jurisdiction. In addition to any other legal rights and
38 remedies, if a jury or court finds that a violation has occurred, it
39 shall award damages to that individual in an amount up to a

1 maximum of three times the actual damages, but in no case less
2 than four thousand dollars (\$4,000).

3 (d) An interactive computer service or access software
4 provider, as defined in Section 230(f) of Title 47 of the United
5 States Code, shall not be liable under this section unless the
6 service or provider intends to abet or cause bodily harm that is
7 likely to occur or threatens to cause bodily harm to a provider,
8 employee, volunteer, or patient of a reproductive health services
9 facility or any person residing at the same home address.

10 (e) Nothing in this section is intended to preclude punishment
11 under any other provision of law.

12 6218.05. For purposes of this chapter, the following terms
13 have the following meanings:

14 (a) “Reproductive health care services” means health care
15 services relating to the termination of a pregnancy in a
16 reproductive health care services facility.

17 (b) “Reproductive health care services provider, employee,
18 volunteer, or patient” means a person who obtains, provides, or
19 assists, at the request of another person, in obtaining or providing
20 reproductive health care services, or a person who owns or
21 operates a reproductive health care services facility.

22 (c) “Reproductive health care services facility” includes a
23 hospital, an office operated by a licensed physician and surgeon,
24 a licensed clinic or a clinic exempt from licensure, or other
25 licensed health care facility that provides reproductive health
26 care services and includes only the building or structure in which
27 the reproductive health care services are actually provided.

28 (d) “Publicly post” or “publicly display” means to
29 intentionally communicate or otherwise make available to the
30 general public.

31 (e) “Image” includes, but is not limited to, any photograph,
32 video footage, sketch, or computer-generated image that provides
33 a means to visually identify the person depicted.

34 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
35 ~~Section 6 of Article XIII B of the California Constitution because~~
36 ~~the only costs that may be incurred by a local agency or school~~
37 ~~district will be incurred because this act creates a new crime or~~
38 ~~infraction, eliminates a crime or infraction, or changes the~~
39 ~~penalty for a crime or infraction, within the meaning of Section~~
40 ~~17556 of the Government Code, or changes the definition of a~~

1 ~~crime within the meaning of Section 6 of Article XIII B of the~~
2 ~~California Constitution.~~

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5 CORRECTIONS: _____

6 Text — Page 3.

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